

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

**ROY HOLMES, TINA ALEXANDER,
PATRICK NORRIS, and MELISSA GARNER,
Each Individually and on Behalf of
All Others Similarly Situated**

PLAINTIFFS

vs.

Case No. 4:20-cv-191-DPM

**STETSON COURIER, INC.
and JOHN STETSON**

DEFENDANTS

**PLAINTIFFS' MOTION FOR SANCTIONS
AND REQUEST FOR WRIT OF BODY ATTACHMENT**

Plaintiffs Roy Holmes, Tina Alexander, Patrick Norris, and Melissa Garner, by and through their attorneys of the Sanford Law Firm, PLLC, for their Motion for Sanctions and Request for Write of Body Attachment, state as follows:

1. On 19 September 2024, this Court entered an Order extending the post-judgment discovery deadline to 20 December 2024 and compelling Defendant John Stetson to appear at a deposition on 18 October 2024. Defendant Stetson failed to appear at the deposition. See Record of Nonappearance of John Stetson, attached as Exhibit 1.

2. Under Federal Rule of Civil Procedure 37(b)(1), “[i]f the court where the discovery is taken orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of court.”

3. “If a litigant fails to comply with a request for discovery, the court may issue an order directing compliance that is enforceable by the court’s contempt

powers.” *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 30 (1984). An order of contempt may not be entered until after the court enters an order compelling discovery. *Schleper v. Ford Motor Co., Auto. Div.*, 585 F.2d 1367, 1371 (8th Cir. 1978).

4. Because Defendant Stetson failed to appear at the Court ordered deposition, the Court may hold Defendant Stetson in contempt pursuant to Rule 37.

5. Plaintiffs seek to depose Defendant Stetson to ascertain whether he has fraudulently transferred assets to a sham organization to avoid judgment liability in this case. Accordingly, the sanctions provided in Rule 37(b)(2), which punish noncompliant parties in a pre-judgment setting, are insufficient for Plaintiffs’ purposes.

6. Plaintiffs respectfully request the Court issue a Writ of Body Attachment, which would authorize United States Marshalls to collect Defendant Stetson’s person to be held until he appears at a deposition. Plaintiffs likewise respectfully request that the Court permit the deposition be taken at the Richard Sheppard Arnold United States Courthouse, 500 West Capitol Avenue, Little Rock, Arkansas 72201.

7. Federal Rule of Civil Procedure 4.1(b) provides that “[a]n order committing a person for civil contempt of a decree or injunction issued to enforce federal law may be served and enforced in any district.” Accordingly, this Court may authorize Defendant Stetson’s collection in the district in which he currently resides.¹

8. In this case, Plaintiffs’ claims arise under federal law, specifically the FLSA, 29 U.S.C. 201 et seq., and the Court may enter an order committing Defendant Stetson for civil contempt in any district. See, e.g., *Gaulden v. City of Desloge*, No. 4:07CV01637 ERW, 2009 U.S. Dist. LEXIS 19912, at *4–5 (E.D. Mo. Mar. 12, 2009)

¹ Plaintiffs’ counsel has performed a skip trace on Defendant Stetson to determine his whereabouts and believe he is currently residing at 6370 Watercrest Way, Unit 201, Lakewood Ranch, Florida 34202.

(citing *SEC v. Res. Dev. Int'l L.L.C.*, 86 F.App'x 14 (5th Cir. 2003); *SEC v. Bilzerian*, 131 F. Supp. 2d 10 (D.D.C. 2001); *Spectacular Venture L.P. v. World Star Int'l, Inc.*, 1998 U.S. Dist. LEXIS 10865 (S.D.N.Y. July 17, 1998)). See also *Conway v. Portfolio Recovery Grp., LLC*, No. 4:12CV02244 ERW, 2014 U.S. Dist. LEXIS 38240, at *1 (E.D. Mo. Mar. 24, 2014) (memorandum and order directing the United States Marshal Service, Eastern District of Missouri, to execute a body attachment against a party located in the State of New York).

9. Use of a writ of body attachment to compel deposition attendance has precedent within the Eighth Circuit. In *Gaulden v. City of Desloge*, the Eastern District of Missouri issued a writ of body attachment against a defendant who failed to appear at two depositions, one of which was court-ordered, and a hearing. 2009 U.S. Dist. LEXIS 19912, at *1–2.

10. All other attempts to execute this Court's judgment against Defendant Stetson have failed. Defendant Stetson has transferred all assets to a different company operating out of Florida in flagrant disregard for this Court's authority and judgment. The deposition of Defendant Stetson is necessary to ascertain the whereabouts of Defendant Stetson's assets that the judgment against him may be fully executed.

11. Defendant John Stetson remains *pro se* and has failed to engage with Plaintiffs' discovery requests or his previous counsel. See Renewed Motion to Withdraw as Counsel, ECF 168. Therefore, Plaintiffs assume his position is **Opposed**.

WHEREFORE, premises considered, Plaintiffs respectfully request an order of this Court holding Defendant Stetson in contempt and issuing a writ of body attachment

requiring Defendant Stetson to appear at a deposition to be held at the Courthouse, and for such other relief as may be just and proper.

Respectfully submitted,

**ROY HOLMES, TINA ALEXANDER,
PATRICK NORRIS and MELISSA
GARNER, PLAINTIFFS**

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